

Implementation of the Tax Cuts and Jobs Act of 2017: An SOI Response

by Martha Harris

A Context for Response

The Tax Cuts and Jobs Act (TCJA) of 2017 became law (P.L. 115-97) on December 21, 2017, and many of its provisions affected the income tax returns filed by businesses and individuals after December 31, 2017. Statistics of Income (SOI) responded expeditiously to first understand and then to identify where TCJA provisions applied to SOI studies and implement the necessary changes. Most importantly, SOI's experience with TCJA was different from any other major tax legislation due to the magnitude of its impact on SOI studies and the resources needed for SOI to respond. Specifically, SOI identified nearly 80 provisions in the TCJA legislation that affected the datasets used in its studies and incorporated 17 new income tax forms and approximately 1,000 new data items as a result. Nearly half of these new tax forms were in response to TCJA's international provisions. In addition, some previously filed international schedules would now be filed numerous times for each foreign subsidiary, based on their foreign tax credit income category.

Prior to TCJA, there were approximately 50 pieces of tax legislation passed following the Tax Reform Act of 1986 (TRA).¹ Each had varying degrees of impact on SOI studies, with the 1986 Act thought of as the next closest in scope to TCJA. TRA and TCJA both contained provisions in such areas as individual tax rates, State and local sales tax deductions, personal exemptions and standard deductions, individual and corporate alternative minimum tax, net operating losses, property expensing, and the investment tax credit, among others. TCJA introduced changes in additional areas such as the deduction for qualified business income from certain trades or businesses, including partnerships, S-corporations, sole proprietorships (also referred to as the Code section 199A deduction); the limitation on the business interest expense deduction (also referred to as Code section 163j deduction); qualified opportunity zones; and a transition tax under a new Code section 965 on the untaxed accumulated foreign earnings and profits from foreign subsidiaries of U.S. companies.

In the years before and after TCJA, SOI's core mission has remained the collection, analysis, safeguarding, and dissemination of information on Federal taxation while adapting to the changing environment within IRS and the Federal statistical and tax policy communities. For example, SOI's mission includes statistical support provided to the IRS for program evaluation and measurement analytics as well as leading efforts to modernize Federal statistical programs and practices in collaboration with the Federal statistical community. SOI was thus well positioned to respond to the challenges of incorporating the complex requirements introduced with TCJA.

A Response Strategy

Work to identify the many changes to SOI's studies following the passage of the TCJA commenced among SOI's subject-matter and program development areas, which included income tax studies on corporations, individuals, international, partnerships, and tax-exempt organizations. These study areas already had time-tested procedures and timelines for developing and implementing each year's study program. Due to TCJA's scope, however, SOI implemented additional tools and strategies to help identify, communicate, assess, and stay informed across SOI as follows:

Identify (The Tax Cuts and Jobs Act Inventory by SOI Study Area): SOI reviewed the TCJA legislation for provisions affecting its studies respectively in the corporation, individual, international, partnership, and tax-exempt areas and compiled an inventory (Figure A). From this inventory, it was possible to identify cases in which a provision affected more than one study, thus providing opportunities for staff coordination. Approximately 20 percent of the TCJA provisions affected more than one study. This tool was further expanded with indicators internal to SOI to assist in the resource management of incorporating TCJA requirements. Such indicators included whether the new items would be included in the schema for electronic filing, thus reducing SOI transcription costs; subject-matter assessment of tax administration priority in consultation with customers; and the impact on SOI resources. Subsequently, milestone dates were established toward finalizing SOI requirements, which informed anticipated implementation dates for its various studies.

Communicate: SOI staff engaged in early and ongoing communications with its primary customers to ensure that study content would align with their additional needs for tax policy analysis, adjusting as needed based on any new information. SOI also stayed apprised of TCJA implementation within IRS through regular participation in conference calls conducted by the respective teams, which had been organized within the business operating divisions. For example, teams were established for the section 199A deduction and new section 965 changes, among others. In addition, a centralized strategy was employed consisting of a series of written updates shared among SOI staff and highlighting the ongoing work being undertaken throughout the IRS with the information compiled from two sources. The first grew out of attendance by SOI's Initiative Coordinator at weekly meetings of the Tax Reform Implementation Council, summarizing implementation progress across the IRS business units to include proposed and final regulations. These updates from the Large Business & International, Small Business

¹ See Urban Institute and Brookings Institution Tax Policy Center. Laws and Proposals. <https://www.taxpolicycenter.org/laws-proposals>.



& Self-Employed, and Tax Exempt & Government Entities Business Operating Divisions were an additional tool for staff efforts to map changes to SOI study areas and to provide contacts for any necessary follow-up. The second source resulted from coordinated action to pull together guidance such as Fact Sheets, Tax Tips, and Frequently Asked Questions (FAQs) posted to the IRS Website, as well as IRS publications and forms as they were being drafted. The additional support in tracking ongoing progress within the IRS coincided with planning SOI's studies.

Assess Impacts on Other SOI Customers: SOI communicated closely with its Federal agency customers as it incorporated changes due to TCJA. Interagency agreements were reviewed to identify its impact and determine how taxpayer reporting could change based on revisions to the forms for Tax Year 2018. The annual process of producing SOI's study content documentation is very adaptable to identifying points of change relating to major tax legislation.² SOI documented this information and shared it with its Federal customers.

Stay Informed by Building a Knowledge Base: SOI staff engaged in opportunities to increase their understanding of TCJA and the types of changes it would introduce to the datasets used to conduct SOI's studies. The SOI Consultants Panel meeting in September 2018 featured presentations on both individual and business income tax topics and provided valuable suggestions for meeting the needs of the tax community.³ In addition, SOI staff sought training on the effects of TCJA, attending conferences addressing this specific topic, including those sponsored by the National Tax Association and academic institutions, which also provided the perspectives of tax policy and legal experts. Finally, the IRS business units developed training materials on the effects of TCJA on individual and business income taxes and shared these materials with SOI staff.

Filing Season for Tax Year 2018 Income Taxes and Beyond

With the commencement of the 2019 filing season for income taxes filed by individuals and businesses for Tax Year 2018, SOI and the IRS Wage and Investment Division (W&I) had a unique opportunity to work together in the review of incoming totals. Specifically, these corresponded to a number of key lines from the *U.S. Individual Income Tax Return* (Form 1040) and schedules, including *Itemized Deductions* (Schedule A). With the number of changes introduced by TCJA, the advantage of conducting joint comparisons to identify emerging trends during early points in the filing season was mutually beneficial. This strategy built upon prior discussions between Research, Applied Analytics, and Statistics (RAAS) and the IRS Tax Reform Implementation Office (TRIO) to anticipate areas of change that could be of the most interest when thinking about early public releases of population statistics. Subsequently, SOI contributed its expertise in data presentation to prepare data tables and graphical presentations for IRS leadership on key trends identified.

Finally, Tax Year 2018 SOI studies are currently at various stages of completion. Data captured based on the SOI samples, the accompanying data validation and testing routines, and reviews by the subject-matter experts are preludes to the much-anticipated publication of the first post-TCJA year. Some selected early data have been made available on the IRS Tax Stats Web page with more to follow based on SOI's public release schedule.⁴

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² SOI collects input from its customers to determine its study requirements, which are documented annually. See Internal Revenue Service (IRS) *Statistics of Income, Program Documentation, Data Items by Forms and Schedules*, Publication 5384 (Rev.12-2019) Catalogue Number 73556B, available on the IRS Tax Stats Web page at: <https://www.irs.gov/pub/irs-pdf/p5384.pdf>.

³ Members of the SOI Consultants Panel, which was established in 1986, are individuals from academia, private sector, State and local governments, and nonprofit organizations.

⁴ See Internal Revenue Service (IRS). *Statistics of Income, "Effect of Transition Tax on Domestic Corporations"* (March 2020) at <https://www.irs.gov/statistics/soi-tax-stats-section-965-transition-tax>; "Mid-November Filing Season Statistics by AGI" (March 2020) at <https://www.irs.gov/statistics/filing-season-statistics>; and SOI's Upcoming Data Release Schedule at <https://www.irs.gov/statistics/soi-tax-stats-upcoming-data-releases>.

Figure A
Tax Cuts and Jobs Act Inventory by SOI Study Area

Law Section Reference	Form Location	Corp	Partshp	Intern'l	Indiv.	Tax Exempt & Estate	Description	Temp or Perm
11001	1040						New tax brackets	2018 thru 2025
11011	1065 K1, 1120K1, 1040, Sch.C, Sch F, Sch. E	●	●				20% ded by ind for qualified bus inc "199A"	2018 thru 2025
11012	1040, Sch. C, Sch. F, Sch. E						Prohibits excess business losses by other than corps	
11021	1040						Standard deduction increase	2018 thru 2025
11022	8812						Modifies the child tax credit	2018 thru 2025
11023	1040, Sch. A						The new law eliminates the limitation on all itemized deductions	2018 thru 2025
11027	1040, Sch.A						Reduces AGI threshold for med exp by itemizers (NOTE: this was put in for TY 2017)	Temp, 2017 and 2018
11041	1040						Suspension of personal exemptions	2018 thru 2025
11042	1040, Sch.A						Limits State and local tax deduction	2018 thru 2025
11043	1040, Sch. A						Modifies ded for home mortgage interest	2018 thru 2025
11044	1040, SchA, Form 4684						Limits ded for personal casualty & theft losses to only those from federally declared disaster areas	2018 thru 2025
11045	1040, Sch A						Suspends misc itemized deductions that were subject to 2% AGI limit	2018 thru 2025
11049	1040, Sch 1; 3903						Suspends moving ded except for armed forces	2018 thru 2025
11061	706 - Estates 709 - Gift					●	Doubles estate and gift tax exemption amt	2018 thru 2025
11081	N.A.						Repeals ind mandate (ACA)	Perm after 12/31/2018
12003	6251						Increased exemption amts and phaseout thresholds	
13001	1120 variants; 990-T	●				●	Reduction in corp tax rate from 35% to 21%	After 12/31/2017; blended for fiscal year filers
13002	1120, -F, -L, -PC	●					Reduced ded for dividends recd fr othr corps	Perm
13101	4562	●	●		●		Expands expensing of certain assets under sec. 179	After 12/31/2017
13102	1125A, 1040, Sch C, 1065	●	●		●		Modifies and simplifies small business qualification for cash method of acctg	
13201	4562	●	●		●		Allows increased expensing for certain business property	After 9/27/17 and before 1/1/23
13301	1120, Sch K; -L, Sch M; -PC, Sch I; -RIC, Sch. K; -REIT, Sch. K; 1120F; -S, Sch. B; 1065, Sch. B; 1040, Sch. C, Sch. F	●	●		●		Limitation in business interest expense ded "163j"	Perm
13301	Form 8990 (New Form)	●	●		●		Limitation in business interest expense ded "163j"	Perm
13302	1120,-F,-L,-PC,-REIT	●					Modifies net operating loss deduction carrybacks and carryforwards	Perm
13305	8903	●	●				Repeals domestic activities prod. ded except for cooperatives	After 12/31/2017
13401	8820(Orphan Drug)	●					Reduces credit rate from 50% to 25%	After 12/31/2017
13402	3468 (Investment Cr)	●	●		●		Repeals 10% credit for certain rehabilitated bldgs and modifies 20% credit for certified historic structures	After 12/31/2017
13403	1120 variants; 1065, 1040	●	●		●		Family leave General Business Credit	2018-2019
13403	8994 (New Form)	●	●		●		Family leave General Business Credit	2018-2019
13404	8038-TC	●			●		Repeals authority to issue tax credit bonds	Issued after 12/31/2017
13511	1120-L, Sch. M	●					Repeals operations loss ded and allows NOL under Section 172	After 12/31/2017
13512	1120-L	●					Repeals small life insurance co. deduction	After 12/31/2017
13513	1120-L	●					Income or loss for change in computing reserves	After 12/31/2017
13514	1120-L	●					Repeal of rule for distribution to shareholders - policyholders surplus account	After 12/31/2017
13515	1120-PC, Sch. F	●					Modifies proration rules for 1120-PC	After 12/31/2017
13516	1120-L and 1120PC, 8816	●					Repeal of special estimated tax payments	After 12/31/2017
13518	1120-L, Sch. F	●					Modifies the Life proration rules for certain income and sets company's share to 70%	After 12/31/2017
13532	8038-G					●	Repeals the exclusion from gross income for interest on a bond issued to advance refund another bond.	After 12/31/2017
13543	1120S, Sch.M2	●					Modifies tax treatment of Scorp conversion to Ccorp	
13601	1120 variants	●					Limits ded. of compensation of covered employees to salaries less than \$1 mil	After 12/31/2017
13602	4720/990/990-PF/990-T					●	Imposes excise tax on excess executive compensation	After 12/31/2017
13701	4720/990/990-PF/990-T					●	1.4% excise tax on net invest income of certain private universities and colleges.	After 12/31/2017
13702	990-T					●	Unrelated business taxable income separately computed for each trade or business activity	After 12/31/2017
13703	990-T					●	Unrelated business taxable income increased by amount of certain fringe benefit expenses for which deduction is disallowed	After 12/31/2017
13823	1120, Sch.K,-F (addit); -REIT, Sch. K; 1120S Sch.B;1065, Sch B; 1040	●	●		●		Opportunity zone investments by corps and partnerships	Perm
13823	8996 (New Form)	●	●		●		Opportunity zone investments by corps and partnerships	Perm
14101	1120 variants dividends line	●					100% ded. for foreign sourced dividends recd from specified 10% owned foreign corps by domestic corps	
14103	1120 variants; 1065; 5471/990-T/990-PF; 1040	●	●	●	●	●	Section 965: tax treatment of deferred foreign income	
14201	1120 variants; 1065; 5471; 1040	●	●	●	●		Inclusion of Global Intangible Low Taxed Income	
14201	8992 (New Form)	●	●	●	●		Inclusion of Global Intangible Low Taxed Income	
14202	1120, Sch. C, -L, Sch. A; -PC, Sch. C	●					Ded for domestic corps for portions of FDII and GILTI	
14202	8993 (New Form)	●					Ded for domestic corps for portions of FDII and GILTI	
14401	1120, Sch.J & K; -L, Sch. K & M; -PC, Pg1 & Sch. I	●					Imposes base erosion min tax	
14401	8991 (New Form)	●					Imposes base erosion min tax	

Figure A
Tax Cuts and Jobs Act Inventory by SOI Study Area—Continued

Section Nos. 14101-14401 of TCJA							
Form - most new or substantially changed	Corp	Partshp	Intern'l	Indiv.	Tax Exempt & Estate		Description
Form 965			●				Deemed Tax on Deferred Foreign Income
Form 965 Schedule A			●	●			U.S. Shareholder 965 Inclusion
Form 965 Schedule B			●				Deferred Foreign Corp E&P
Form 965 Schedule C			●				U.S. Shareholder Aggregate Foreign E&P Deficit
Form 965 Schedule D			●				U.S. Shareholder Aggregate For. Cash Position
Form 965 Schedule E			●				Schedule D Detail
Form 965 Schedule F			●				Foreign Taxes Deemed Paid by Dom Corp 2018
Form 965 Schedule G			●				Foreign Taxes Deemed Paid by Dom Corp 2017
Form 965 Schedule H			●				1118 Amounts and Disallowed Foreign Taxes
Form 965-B			●				Corporate Report of Net Tax Liability
Form 8991			●				Tax on Base Erosion Payments (BEAT)
Form 8992			●				Global Intangible Low-Taxed Income (GILTI)
Form 8993			●				FDII and GILTI Income and Deduction
Form 1118			●				Corporate Foreign Tax Credit
Form 1118, Schedule I			●				Reduction of Foreign Oil and Gas Taxes
Form 1118, Schedule J			●				Basket Limitation Adjustments
Form 5471			●				Controlled Foreign Corporations
Form 5471, Schedule E			●				CFC Taxes Paid or Accrued
Form 5471, Schedule H			●				Current E&P
Form 5471, Schedule I-1			●				CFC Information for GILTI
Form 5471, Schedule J			●				Accumulated E&P of CFCs
Form 5471, Schedule M			●				CFC Transaction Schedule
Form 5471, Schedule P			●				Previously Taxed E&P
Form 8858			●				Foreign Disregarded Entities and Branches
Form 8858, Schedule M			●				FDE/Branch Transaction Schedule
Form 8865			●				Controlled Foreign Partnerships
Form 8865, Schedule G			●				Gain Deferral Method
Form 8865, Schedule H			●				Events & Exceptions to Gain Deferral Method
Form 5472			●				Transactions of Foreign Owned Corporations